

MoFi Weathers Legal Storm

Label admitted it concealed a digital step in mastering, lawsuits followed

BY LARRY JAFFEE

LAST SUMMER THE VENERABLE Mobile Fidelity label admitted that since 2011 it concealed a digital step in its vinyl mastering process, prompting several class-action lawsuits.

The label took several weeks last July to address the scores of pissed-off customers threatening on social media to never buy again an MoFi record. The flaming on numerous YouTube channels and the influential Steve Hoffman forum spread through the audiophile community like a California wildfire.

On July 29, MoFi president Jim Davis finally disclosed on its website that it had used “vague language, allowing false narratives to propagate.” In other words, MoFi led its customers to believe the records were all-analog and made from the original master tapes originally recorded in the studio. In reality, MoFi had been using Direct Digital Stream (DSD) to cut its masters for the past 11 years.

Davis, whose Music Direct Inc. bought MoFi out of bankruptcy in 2001, and several other MoFi executives attended my Making Vinyl conference in Nashville in late June.

Full disclosure: In mid-August, I offered my crisis management services to MoFi, which they declined. For seven years, I taught a graduate-level Crisis Communications course at the New York Institute of Technology (RCN, Feb. 2, 2020).

It was certainly the company’s prerogative to instead stick with its public relations firm, but handling a crisis is not a routine PR matter, especially when thousands of former loyal customers threatened to cancel preorders.

What’s especially curious about what happened is that MoFi brought on this crisis all by itself when announcing in May 2022 that it will release 40,000 copies of a 40th anniversary “UltraDisc” \$100 edition of Michael Jackson’s *Thriller*, the



MoFi-gate began when Phoenix, AZ record store owner Mike Esposito publicly speculated on his YouTube channel, “The ‘In’ Groove,” that MoFi’s production process must have included a digital step.

best-selling album of all time.

Any tapes of such vintage are precious and degradable. A press run of that volume would require 40 run-throughs of the master tape, jeopardizing any future use. In addition, New York-based Sony Music was known to only let its original tapes out to mastering facility Sterling Sound because it had been local but moved to Nashville a few years ago. Sony wasn’t about to ship one-of-a-kind masters across the country to MoFi in Sebastopol, Calif., north of San Francisco.

Prompted by a rumor-filled hunch, Phoenix, Arizona record store owner Mike Esposito publicly speculated on his YouTube channel “The ‘In’ Groove” that MoFi’s production process must have included a digital step, prompting a marketing executive from the company to visit its facility. In an hour-long interview a week later there, three MoFi technicians detailed how the records are made, and in doing so, confirming Esposito’s suspicions.

Prior to the revelation, the DSD step were missing from schematics adorning MoFi packaging and its website. Sony developed DSD for SuperAudio CD, on

which MoFi still releases gold discs.

In recent months, MoFi has revised vinyl titles’ source information on its website that now often shows DSD64 and DSD256, the latter used for the new *Thriller*. By its own admission, about 60 percent of MoFi vinyl titles it released since 2011 had used DSD for the master, and the last MoFi vinyl album whose lacquer was cut from an actual original master tape was David Crosby’s *If I Can Only Remember My Name*, released in 2022 but made in 2020. It is the last MoFi record that could be considered all-analog. None others are planned using an original tape.

BUSINESS AS USUAL, REALLY?

IN CRISIS MANAGEMENT, THREE KINDS of crises — Creeping, Slow Burn, and Sudden — characterize companies in trouble. MoFi hit the trifecta by not recognizing the series of events that decision makers didn’t view as part of a pattern (Creeping); it certainly had some advance warning (Slow Burn), but the situation had not caused actual damage to the company’s reputation; the damage occurred (Sudden) when Esposito’s video went viral.

Of course, “MoFi-gate” – as it has been coined in the blogosphere – could have been avoided. Why all these years no one at Mobile Fidelity thought that the deception would be eventually discovered is a mystery.

My educated guess is they didn’t want to run the risk of losing the all-analog purists, some of whom now feel extremely deceived because they thought they could detect the difference between a vinyl record culled from an original tape vs. a digital source from which the lacquer was cut.

At the top of many covers is the trademarked ORIGINAL MASTER RECORDING in gold lettering, which buyers always assumed meant it was from the analog tape. Other MoFi covers are labelled in silver at the top MOBILE FIDELITY SOUND LABS, the label’s faithful figured that it could have been a non-original tape. It’ll be up to the pending cases’ judges and/or juries to figure out those phrases’ true meaning, or MoFi’s intention.

Capitol Records certainly understood “imitation is the best form of flattery” when it reissued in 1987 John Lennon’s *Imagine* with a front cover that has a white stripe across the top that reads in silver “DIGITALLY RE-MASTERED” in a font similar to MoFi’s.

Ironically, that year the Beatles’ first CDs were released and digitally remastered for that format, which the industry sold consumers as having superior sound.

Over the years, MoFi has introduced such proprietary vinyl sonic enhancements as its “Gain 2 Ultra Analog” cutting system; streamlined “One-Step” stamper process; and “Pure Vinyl” PVC material that gets pressed as finished records, which

had been done by Record Technology Inc. (RTI), of Camarillo, California.

Later in 2023, MoFi is planning to open its own manufacturing facility, Fidelity Record Pressing, in Oxnard, California (about 10 miles west of RTI), in partnership with RTI’s longtime chief technician and his son. The move is similar to what Vinyl Me, Please did in Denver, Colorado, recruiting away Salina, Kansas-based Analog Productions’ sister company Quality Record Pressing’s chief technician. Both new facilities are designed to more quickly get records into a bottlenecked marketplace try to keep up with consumer demand.

With pending litigation at stake, the company’s strategy clearly has been to say as little as possible about past transgressions. Two lengthy interviews that Davis did last fall with *The Absolute Sound* and *Stereophile* focused on how MoFi is producing records going forward. It’s unclear whether those publications’ editors who conducted the interviews asked Davis the obvious and hard questions.

In the first class-action federal lawsuit filed on Aug. 4, 2022 in Washington State, MoFi’s “statements and material omissions about the quality of characteristics of certain of its analog vinyl recordings were false and deceptive and/or had the capacity to deceive the buying public.”

In the second suit filed in Chicago on Aug. 18, 2022, an Oct. 9, 2020 email exchange between a consumer and customer service rep is cited and could possibly be regarded as a smoking gun:

“There is no analog to digital conversion in our vinyl cutting process. Any product that bears the ORIGINAL MASTER RECORDING stripe on the jacket lets the customer know that the original

Master Tape was used to produce the release ... We do not use digital sources except in cases where’s the title’s original master was digital itself.” In the middle of the email, the recipient is told that in instances where a tape could not be fully verified “in the interest of honesty, it’s not granted the ORIGINAL MASTER RECORDING stripe.”

BUSINESS ETHICS ASIDE, in class-action suits usually the lawyers make out best financially, not the class members. In October, I received a gift card for \$5.86 from target.com as restitution for buying a laptop with an optical disc drive that apparently prompted class-action litigation.

Music industry researcher Russ Crupnick estimated last year that 2 million U.S. consumers – one in eight who buy vinyl – consider themselves audiophiles. But that doesn’t necessarily mean they bought a new MoFi record since 2011, or that the plaintiffs will prevail in what these days usually appears to be a pro-business/anti-consumer legal environment.

In my opinion, one way MoFi could have showed some good will to its pissed-off customers would have been to offer a sizable discount to purchasers who could prove they bought a MoFi record in the past, but that didn’t happen. Time will tell if the court of public opinion has died down since the crisis’ early days.

After the *Washington Post* covered the controversy, MoFi has put on a “Business As Usual” face, even to the extent of keeping up its motto “The Indisputable Leader in Audiophile Recordings” and sticking to its release schedule.

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